

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

SUSANNA MIRKIN and BORIS MIRKIN,  
Individually and on Behalf of All Others  
Similarly Situated,

Plaintiffs,

v.

XOOM ENERGY, LLC and XOOM  
ENERGY NEW YORK, LLC,

Defendants.

No. 18 Civ. 2949 (ARR) (JAM)

**ORAL ARGUMENT REQUESTED**

**NOTICE OF XOOM'S MOTION**  
**TO EXCLUDE PLAINTIFF'S TIMELY EXPERT DISCLOSURES**

PLEASE TAKE NOTICE that, upon Defendants' Memorandum of Law in Support of Motion to Exclude Plaintiff's Timely Expert Disclosures and the accompanying Declaration of Michael D. Matthews, Jr. and Exhibits thereto, Defendants XOOM Energy, LLC and XOOM Energy New York, LLC move to exclude from evidence the opinions contained in CRA's Report dated October 3, 2022, and CRA's Rebuttal Report dated November 4, 2022, in their entirety.

Dated: May 20, 2024

MCDOWELL HETHERINGTON LLP

/s/ Michael D. Matthews, Jr

Michael D. Matthews, Jr.

Diane S. Wizig (admitted *pro hac vice*)

James M. Chambers (admitted *pro hac vice*)

David L. Villarreal (admitted *pro hac vice*)

Netra Sreeprakash

Justin Chapa (*pro hac* forthcoming)

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*Attorneys for Defendants XOOM Energy, LLC  
and XOOM Energy New York, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served on the 20th day of May, 2024 via email on all counsel of record.

/s/Michael D. Matthews, Jr.  
Michael D. Matthews, Jr.